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16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 * * *

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20 ELAN MICROELECTRONICS
CORPORATION,
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22 Plaintiff,
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24 vs.
25 PIXCIR MICROELECTRONICS CO.
LTD.,
26 Defendant.

Case No.: 2:10-cv-00014-GMN-PAL

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS AND
GRANTING PLAINTIFF'S
COUNTERMOTION FOR
JURISDICTIONAL DISCOVERY**

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This matter came before the Court on Defendant Pixcir Microelectronics Co., Ltd.'s Motion to Dismiss for Lack of Personal Jurisdiction [Doc. # 16], filed on October 4, 2010, and Plaintiff Elan Microelectronics Corporation's Countermotion for Jurisdictional Discovery [Doc. #22], filed on October 21, 2010. The Court, having reviewed the motions, oppositions and replies, being fully advised in the premises, and good cause appear therefore, hereby finds and orders as follows:

1. This case arises out of Plaintiff Elan Microelectronics Corporation's ("Elan") claim that Defendant Pixcir Microelectronics Co. ("Pixcir") has infringed on U.S. Patent No. 5,825,352 ("the '352 patent"). Pixcir is a company based in the People's Republic of China.

2. Defendant Pixcir moved this Court to dismiss this action due to lack of personal jurisdiction. *See* Doc. # 16.

3. Plaintiff Elan has opposed Pixcir's motion, has demonstrated at least some of Defendant Pixcir's contacts with the District of Nevada, and has requested the opportunity to conduct discovery in order to be able to demonstrate additional facts supporting jurisdiction. *See* Doc. #17, Doc. #22.

4. Jurisdictional discovery is "appropriate where the existing record is 'inadequate' to support personal jurisdiction and 'a party demonstrates that it can supplement its jurisdictional allegations through discovery.'" *Trintec Indus. v. Pedre Promotional Prods.*, 395 F.3d 1275 (Fed. Cir. 2005) (quoting *GTE New Media Servs. Inc. v. BellSouth Corp.*, 199 F.3d 1343, 1349 (D.C. Cir. 2000)). "[D]iscovery should ordinarily be granted where pertinent facts bearing on the question of jurisdiction are controverted or where a more satisfactory showing of the facts is necessary." *Lamb v. United States Dep't of the Interior*, 342 F.3d 1080, 1093 (9th Cir. 2003) (quotation omitted).

5. Nevada's long-arm statute, NRS 14.065, reaches the limits of due process set by the United States Constitution. *Patent Rights Prot. Group, LLC*, 603 F.3d 1364, 1369 (Fed. Cir. 2010). Therefore, to establish specific jurisdiction, Plaintiff is required to show that (1) the Defendant purposefully directed its activities at residents of the forum; (2) the claim arises out of or relates to the defendant's activities with the forum; and (3) assertion of personal jurisdiction is

1 reasonable and fair. *Synthes (U.S.A.) v. G.M. Dos Reis Jr. Ind. Com. De Equip. Medico*, 563 F.3d
2 1285, 1297 (Fed. Cir. 2009) (citation omitted).

3 6. Alternatively, pursuant to FRCP 4(k)(2), this Court may also exercise jurisdiction
4 where a claim arises under federal law, the defendant does not have minimum contacts with any
5 one state to support jurisdiction, but where its contacts with United States as a whole are sufficient
6 to meet the due process requirements. *Synthes*, 563 F.3d at 1293-94.

7 7. Plaintiff Elan has submitted declarations of Kai Zhu and Jason Englund, in order to
8 show that personal jurisdiction is appropriate pursuant to Nevada's long-arm statute. Plaintiff Elan
9 alleges that the declarations and other documents on file herein demonstrate that (1) Pixcir
10 purposefully directed infringing activities in Nevada by having Pixcir's employees and agents visit
11 Las Vegas for the CES (Consumer Electronics Show) 2009 trade show and targeting the Nevada
12 forum as a market for its products, (2) Elan's patent infringement claim arises out of or relates to
13 Pixcir's activities in and directed to the forum of Nevada, and (3) asserting personal jurisdiction
14 over Pixcir in the District of Nevada is reasonable and fair under the circumstances of this case.

15 8. Plaintiff Elan also claims that the Zhu and Englund Declarations support personal
16 jurisdiction pursuant to FRCP 4(k)(2), if Pixcir is not subject to jurisdiction in any one state, as the
17 declarations and other documents on file herein set forth that (1) Elan's claim is based on patent
18 infringement under federal law, 35 U.S.C. § 271 et seq., and therefore arises under federal law, and
19 (2) Pixcir has sufficient contacts with the United States as a whole, in addition to its contacts
20 directly with Nevada.

21 9. Defendant Pixcir has disputed the factual allegations set forth by Elan in the Zhu
22 and Englund declarations, and claims that this Court does not have personal jurisdiction over
23 Pixcir.

24 10. Due to the fact that the parties dispute pertinent facts bearing on the question of
25 jurisdiction and Pixcir's contacts with the subject forum, the Court hereby finds that it is necessary
26 and appropriate for Elan to conduct jurisdictional discovery.

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11. Under the circumstances of this case, it is apparent that discovery may unearth facts sufficient to support the exercise of personal jurisdiction over Pixcir. *See Patent Rights Prot. Group, LLC*, 603 F.3d at 1372.

12. IT IS HEREBY ORDERED that Plaintiff Elan's request for jurisdiction discovery is GRANTED, as the Court finds that the documents on file, including the declarations submitted by Elan in support of their Opposition and Countermotion, sufficiently demonstrate that Elan can supplement its jurisdiction allegations through discovery.

13. IT IS HEREBY ORDERED that jurisdictional discovery shall be open for a period of 120 days from the date of entry of this Order for the purpose of determining jurisdictional facts related to Pixcir's contacts with the subject forum, including the following:

- a. Activities Pixcir has conducted while in this district;
- b. Whether any officers, directors, agents or dealers of Pixcir have visited this district at any other time for any other purpose;
- c. Pixcir's contributions to and knowledge of the "50 products" displayed at CES 2010 based on the accused Pixcir ICs;
- d. Pixcir's relationship and interaction with U.S.-based companies such as Hewlett-Packard Corp., Dell, Inc., Lenovo and any dealers in the accused Pixcir ICs; and
- e. Volume of sales of products including the accused controller ICs in this district and any actions to market those products to residents of this district.

14. IT IS HEREBY ORDERED that Elan may conduct the following discovery pursuant to the Federal Rules of Civil Procedure:

- a. Ten (10) Written Interrogatories;
- b. Ten (10) Requests for Production of Documents;
- c. Depositions of the directors, agents or dealers of Pixcir that have visited the District of Nevada; and
- d. Deposition of the Person(s) Most Knowledgeable regarding the aforementioned issues in paragraph 13.


1 15. IT IS HEREBY ORDERED that Pixcir's Motion to Dismiss is DENIED without
2 prejudice. Pixcir shall be free to renew its motion upon expiration of the 120-day discovery
3 period.

4 **IT IS SO ORDERED** this 4th day of April, 2011.

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6 
7 Gloria M. Navarro
United States District Judge

8 Respectfully submitted by:

9 **KOLESAR & LEATHAM, CHTD.**

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